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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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B 204.610

EXAMINER

HM12/0319

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NEW YORK NY 10017-5612

STUCKER, J

ART UNIT

PAPER NUMBER

1648

DATE MAILED:

03/19/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

## Office Action Summary

Application No. \_\_\_\_\_

Applicant(s) \_\_\_\_\_

Examiner \_\_\_\_\_

Group Art Unit \_\_\_\_\_

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

### Status

- ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

### Disposition of Claims

- ☒ Claim(s) 1-40, 42-48, 50, & 57-61 is/are pending in the application.
- ☐ Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☒ Claim(s) 1-40, 42-48, 50, & 57-61 are subject to restriction or election requirement.

### Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
  - ☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

\*Certified copies not received: \_\_\_\_\_

### Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

Restriction to one of the following inventions is required under 35 U.S.C. § 121:

I. Claims 1-7, 18-20, and 24, drawn to a vaccine comprising a nucleic acid sequence.

II. Claims 1-6, 8, and 57-59, drawn to a vaccine comprising an amino acid sequence.

III. Claims 1-6, 9, and 42, drawn to a vaccine comprising a nucleic acid sequence (different from the sequences of Group I).

IV. Claims 1-6, 10, and 43, drawn to a vaccine comprising amino acid sequences (different from the sequences of Group II).

V. Claims 1-6, 11, and 44, drawn to a vaccine comprising amino acid sequences (different from the sequences of Groups II and IV).

VI. Claims 1-6 and 12, drawn to a vaccine comprising proteins conjugated to T-helper peptides.

VII. Claims 1-6 and 13, drawn to a vaccine in combination with Nef, Rev, or Gag.

VIII. Claims 1-6 and 14, drawn to a vaccine comprising fusion proteins.

IX. Claims 1-6, 15 and 16, drawn to a vaccine in combination with cytokines.

X. Claims 1-6 and 17, drawn to a vaccine comprising fusion proteins of Tat and IL-12 or Tat and IL-15.

XI. Claims 1-6 and 21-24, drawn to a vaccine comprising vectors expressing cytokines.

XII. Claims 1-6, 25, and 50 drawn to a vaccine comprising autologous dendritic cells.

XIII. Claims 1-6, 26, 27, and 60, drawn to a vaccine comprising adjuvants.

XIV. Claims 1-6 and 28-31, drawn to a vaccine comprising a delivery system.

XV. Claims 1-6 and 32, drawn to a vaccine for immunizing peripheral blood cells.

XVI. Claims 1-6 and 33, drawn to a vaccine combined with inhibitors of viral replication.

XVII. Claims 1-6, 34, 35, 39, and 40, drawn to a vaccine administered mucosally.

XVIII. Claims 1-6 and 36-38, drawn to a vaccine administered systemically or locally.

XIX. Claims 1 and 45-48, drawn to an expression vector.

XX. Claims 1 and 61, drawn to a method for treating AIDS with Tat in combination with paramagnetic beads coated with anti-CD3 and anti-CD28 monoclonal antibodies.

If applicant elects Groups III, IV, or V, he must further elect a specific sequence.

If Group VII is elected, a further election between the proteins and nucleic acids of claim 13 must be made. Claim 13 will be searched with claim 14 if the protein is chosen.

Applicant's attention is drawn to claim 42 which claims a protein have a nucleic acid sequence; proteins are composed of amino acids.

The inventions are distinct, each from the other because of the following reasons:

Each of the groups is directed to materially different compositions that have different components and different properties and uses. The search of each of the groups is not coextensive and would result in an undue burden on the office to search and examine each of the groups.

Because these inventions are distinct for the reasons given above and have acquired separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

It is noted that the specification and claims fail to adhere to the requirements of the sequence rules. Applicant must append SEQ ID Nos. to all mentions of specific sequences in the specification and the claims. See 37 CFR § 1.821(d).

Papers related to this application may be submitted to Group 1648 by facsimile transmission. Papers should be faxed to Group 1648 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG (November 15, 1989).

The Group 1648 Fax numbers are: (703) 308-4242 and (703) 305-3014.

Unofficial communications may be faxed to: (703) 308-4426.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey Stucker whose telephone number is (703) 308-4237. The examiner can normally be reached Monday to Thursday from 7:00am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Housel, can be reached on (703) 308-4027.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

A handwritten signature in cursive script, reading "Jeffrey Stucker".

**JEFFREY STUCKER**  
**PRIMARY EXAMINER**